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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/800,397

03/12/2004

Robert S. Flesch

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HAYNES AND BOONE, LLP  
901 Main Street  
Suite 3100  
Dallas, TX 75202

EXAMINER

NANO, SARGON N

ART UNIT

PAPER NUMBER

2157

MAIL DATE

DELIVERY MODE

11/01/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/800,397

Applicant(s)

FLESCH ET AL.

Examiner

Sargon N. Nano

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 - 20 is/are pending in the application.
- 4a) Of the above claim(s) 8 - 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 7, 18 - 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is responsive to application filed on March 12, 2004. Claims 1- 20 are pending.

### **Election/Restrictions**

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1 – 7, 18 – 20 are drawn to computer conferencing, classified in 709, subclass 204.
- II. Claims 8 – 17 are drawn to computer network access regulating classified in class 709, subclass 225.

The inventions are distinct , each from the other because of the following reasons:

(a) Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because The independent claim in Group I, recites limitations that are not found together in a common independent claim of the other group, for instance , independent claims 1 and 18 recite the limitation " revoking permission to communicate with the client held by entities that are not among the identified entities" which is not found in independent claim of group II .

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2. A telephone call was made to Greg Webb (Registration No. 59,859) on Oct. 22, 200 to request an oral election to the above restriction requirement and resulted in election of group I ( 1 – 7, 18 – 20 ) for prosecution.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4 – 7, 18 – 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Hatlelid U. S. Patent No. 6,772,195.

Hatlelid teaches a chat cluster for virtual world application where a request to initiate a chat cluster is received from a user (see abstract).

As to claim 1, Hatlelid teaches a method for client-side management of communications channels, the method comprising:

determining a maximum number of simultaneous connections  $N$  supportable by a client (see col. 6 lines 4 – 27, Hatlelid, discloses multiple number of connections in a chat cluster) ;

identifying between one and  $N$  entities that meet a predefined criterion (see col. 7 lines 37 – 57, Hatlelid discloses a predefined distance based criteria that is required to join a chat session or cluster) ;

granting permission to the identified entities to communicate with the client(see col. 7 lines 1 – 37 , Hatlelid discloses granting permission to join a chat group); and

revoking permission to communicate with the client held by entities that are not among the identified entities (see col. 7 lines 1 – 37 , Hatlelid discloses revoking permission to join a chat group).

As to claim 4, Hatlelid teaches the method of claim 1 wherein granting permission to the identified entities includes sending a permission message from the client to each of the identified entities (see col. 7 lines 1 – 37).

As to claim 5, Hatlelid teaches the method of claim 1 wherein revoking permission includes sending a revocation message from the client to each of the entities that are not among the identified entities (see col. 7 lines 1 – 37).

As to claim 6, Hatlelid teaches the method of claim 1 wherein the predefined criterion is distance based (see col. 7 lines 37 – 57).

As to claim 7, Hatlelid teaches the method of claim 1 further comprising: determining whether the client has received permission from each of the identified entities to communicate with each entity (see col.5 lines 12 – 28); and

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if permission has not been received from one of the identified entities, identifying between one and N entities that meet the predefined criterion, wherein the identifying excludes the previously identified entity from which permission has not been received (see col. 7 lines 1 – 37).

As to claim 18, Hatlelid teaches a computer readable medium containing a plurality of computer executable instructions for execution on a client computer, the instructions for:

determining a maximum number of simultaneous connections N supportable by the client computer (see col. 6 lines 4 – 27);

identifying between one and N entities that meet a predefined criterion (see col. 7 lines 37 – 57); sending a permission message from the client computer to each of the identified entities, wherein the permission message indicates that the entity can establish a communication channel with the client computer (see col. 7 lines 1 – 37); and

sending a revocation message from the client computer to each of the entities that are not among the identified entities, wherein the revocation message indicates that the entity can no longer communicate with the client computer (see col. 7 lines 1 – 37).

As to claim 19, Hatlelid teaches the method of claim 18 further comprising instructions for:

determining whether the client computer has received permission from each of the identified entities to communicate with each entity (see col. 5 lines 30 – 55); and

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if permission has not been received from one of the identified entities, identifying between one and N entities that meet the predefined criterion, wherein the identifying excludes the previously identified entity from which permission has not been received (see col. 7 lines 1 – 37).

As to claim 20, Hatlelid teaches the method of claim 19 further comprising instructions for maintaining a permission table on the client computer, wherein the permission table associates each identified entity with a first indicator representing whether a permission message has been sent by the client computer and a second indicator representing that a permission message has been received by the client computer (see col.7, lines 1 – 17).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claim 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hatlelid in view of Hedge et al. U.S. Patent No. 6,925,495 (referred to hereafter as Hedge).

Hatlelid teaches the invention as mentioned above. Hatlelid does not explicitly teach the predetermined criteria of connection as the speed of client connection and the processor speed unit within the client. However, Hedge teaches a method and system for delivering and monitoring an on demand play list over a network using a template where the attributes of the requesting device are determined. These attributes may include information related to the operating system of the requesting device. It would have been obvious to one of the ordinary skill in the art at the time of the invention to was made to incorporate the identification of between the devices that meet the predefined criteria such as the connection and the CPU speed of a client device in Hatlelid invention to provide optimized performance of communication among devices in real time.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sargon N. Nano whose telephone number is (571) 272-4007. The examiner can normally be reached on 8 hour.

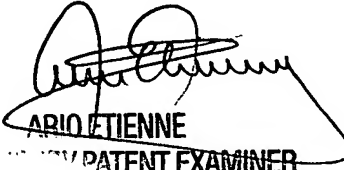


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sargon Nano  
Oct. 22, 2007

  
ARIO ETIENNE  
PATENT EXAMINER  
CENTER 2100